

REMARKS/ARGUMENTS**35 USC § 112**

Claims 1-24 were rejected under 35 USC § 112, second paragraph as being indefinite for various reasons. The applicant agrees in some respect and disagrees in others.

With respect to the Examiner's concerns regarding claims 1, 14, and 21, the applicant disagrees and points to the specification (page 4, line 16 *et seq.*) that provides a clear definition of the meaning of the term "antigen proximally associated with..."

With respect to claim 9, the applicant agrees and amended the claim accordingly.

With respect to the Examiner's concerns regarding claims 13-14, the applicant disagrees, but nevertheless amended the claims as suggested by the Examiner.

35 USC § 102(b)

The Office rejected claims 1-2, 5-6, 10-13, and 21-24 under 35 USC § 102(b) as being anticipated by Harte (U.S. Pat. No. 4,133,639). The applicant disagrees for various reasons, and especially in view of the amendments made herein.

First, the Examiner appears to argue that the body in the '639 patent would be considered a roller surface. Such argument is not persuasive as anticipation under Section 102 requires "the presence in a single prior art disclosure of all elements of a claimed invention *arranged as in that claim.*" *Panduit Corp. v. Dennison Manufacturing Co.*, 774 F.2d 1082, 1101, 227 U.S.P.Q. (BNA) 337, 350 (Fed. Cir. 1985) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. (BNA) 193, 198 (Fed. Cir. 1983)). Clearly, Harte's surface is the surface of a dipstick which is in fixed relation to the handle and not used as a roller, which is *inconsistent with the roller as presently claimed.*

Second, even if Harte would use a roller (which is not the case), *Harte still fails to teach that the test surface is a solid test surface.* The '639 patent is replete with teachings to immerse the surface into a fluid (see *e.g.*, column 3, line 50 *et seq.*, column 4, line 59 *et seq.*, etc). Such use is contrary to what is claimed. Therefore, *anticipation cannot be properly established*, and

the rejection should be withdrawn. With respect to the Examiner's comment that it would not be clear how the antigen would be related to the test surface, the applicant again points to his specific definition in the specification on page 4, line 16 *et seq.*

In view of the present amendments and arguments, the applicant believes that all claims are now in condition for allowance. Therefore, the applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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